

1 AN ACT to amend the Code of Civil Procedure.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Code of Civil Procedure is amended by
5 adding Article V-A as follows:

6 (735 ILCS 5/Art. V-A heading new)

7 Article V-A

8 COSTS

9 (735 ILCS 5/5A-101 new)

10 Sec. 5A-101. Reimbursable costs. A party awarded costs
11 pursuant to this Article is entitled to be reimbursed for the
12 following:

13 (1) all filing, docketing, and other fees and
14 charges paid to the clerk of the court;

15 (2) reasonable fees for service of process or other
16 mandate or proceeding;

17 (3) statutory fees paid to witnesses, including
18 mileage, for each attendance at a deposition, trial, or
19 other proceeding;

20 (4) the reasonable expense of discovery and
21 evidence deposition transcripts, if any part of the
22 deposition is used at trial;

23 (5) reasonable expenses incurred for publication
24 where publication is required by law;

25 (6) fees provided by law for a certified copy of a
26 paper, map, or other document recorded or filed in any
27 public office reasonably obtained for use in the case;

28 (7) reasonable compensation for court appointed
29 experts and interpreters;

30 (8) reasonable premiums or expenses paid on all

1 bonds or other security; and
2 (9) such other expenses as are taxable by provision
3 of law or rule of court.

4 (735 ILCS 5/5A-102 new)
5 Sec. 5A-102. Prevailing party. Except as otherwise
6 provided by law, the prevailing party or parties in
7 litigation shall be entitled to an award of costs. It shall
8 be in the discretion of the court to determine who is the
9 prevailing party or parties.

10 (735 ILCS 5/5A-103 new)
11 Sec. 5A-103. Costs on dismissal. When an action is
12 voluntarily dismissed by the plaintiff or is dismissed for
13 want of prosecution, the defendant shall recover costs
14 against the plaintiff.

15 (735 ILCS 5/5A-104 new)
16 Sec. 5A-104. Bill of costs. Within 30 days after
17 judgment or other final dispositive order, the party or
18 parties entitled to costs shall prepare and file with the
19 clerk and serve upon all persons entitled to notice a bill of
20 costs. Any objections to the bill shall be filed within 14
21 days after service of the bill of costs. If objections are
22 not filed within the 14-day period, the costs shall be deemed
23 to be allowed as set forth in the bill. If objections are
24 filed, the court shall promptly hear and decide them. In
25 either event, the costs allowed shall be included in the
26 judgment or other final dispositive order and shall be
27 recoverable in the same manner as a money judgment. In no
28 event shall any proceedings to determine costs affect the
29 finality of a judgment or other final dispositive order. The
30 court may modify the time periods contained in this Section.

1 (735 ILCS 5/5A-105 new)

2 Sec. 5A-105. Costs after tender. A person who is guilty
3 of a trespass or injury or who owes another liquidated
4 damages or demands arising out of a contract may at any time,
5 before or after suit is brought, tender what he or she shall
6 conceive as sufficient amends for the injury done or to pay
7 the liquidated damages or demands, and if suit has been
8 commenced, also the costs of suit up to the time of making
9 the tender. If it appears that the sum tendered was
10 sufficient amends for the injury done or to pay the damages
11 and, if suit has been commenced, was also sufficient to pay
12 the costs of suit up to the time of making the tender, then
13 the plaintiff shall not be allowed to recover any costs
14 incurred after the tender, but shall be liable to the
15 defendant for the defendant's costs incurred after that time.

16 (735 ILCS 5/5A-106 new)

17 Sec. 5A-106. Leave to sue or defend as an indigent
18 person.

19 (a) As used in this Section:

20 "Fees, costs, and charges" means payments imposed on a
21 party in connection with the prosecution or defense of a
22 civil action, including but not limited to: filing fees;
23 appearance fees; fees for service of process and other papers
24 served either within or outside this State, including service
25 by publication pursuant to Section 2-206 of this Code and
26 publication of necessary legal notices; motion fees; jury
27 demand fees; charges for participation in, or attendance at,
28 any mandatory process or procedure including, but not limited
29 to, conciliation, mediation, arbitration, counseling,
30 evaluation, "Children First", "Focus on Children", or similar
31 programs; fees for supplementary proceedings; charges for
32 translation services; guardian ad litem fees; charges for
33 certified copies of court documents; and all other processes

1 and procedures deemed by the court to be necessary to
2 commence, prosecute, defend, or enforce relief in a civil
3 action.

4 "Indigent person" means any person who meets one or more
5 of the following criteria:

6 (1) He or she is receiving assistance under one or
7 more of the following public benefits programs:
8 Supplemental Security Income (SSI), Aid to the Aged,
9 Blind and Disabled (AABD), Temporary Assistance for Needy
10 Families (TANF), Food Stamps, General Assistance, State
11 Transitional Assistance, or State Children and Family
12 Assistance.

13 (2) His or her available income is 125% or less of
14 the current poverty income guidelines as established by
15 the United States Department of Health and Human
16 Services, unless the person's assets that are not exempt
17 under Part 9 or 10 of Article XII of this Code are of
18 such a nature and value that the court determines that
19 the applicant is able to pay the fees, costs, and
20 charges.

21 (3) He or she is, in the discretion of the court,
22 unable to proceed in an action without payment of fees,
23 costs, and charges, and his or her payment of those fees,
24 costs, and charges would result in substantial hardship
25 to the person or his or her family.

26 (4) He or she is an indigent person pursuant to
27 Section 5A-107.

28 (b) On the application of any person, before or after
29 the commencement of an action, a court, on finding that the
30 applicant is an indigent person, shall grant the applicant
31 leave to sue or defend the action without payment of the
32 fees, costs, and charges of the action.

33 (c) An application for leave to sue or defend an action
34 as an indigent person shall be in writing and supported by

1 the affidavit of the applicant or, if the applicant is a
2 minor or an incompetent adult, by the affidavit of another
3 person having knowledge of the facts. The contents of the
4 affidavit shall be established by Supreme Court rule. The
5 court shall provide, through the office of the clerk of the
6 court, simplified forms consistent with the requirements of
7 this Section and applicable Supreme Court rules to any person
8 seeking to sue or defend an action who indicates an inability
9 to pay the fees, costs, and charges of the action. The
10 application and supporting affidavit may be incorporated into
11 one simplified form. The clerk of the court shall post in a
12 conspicuous place in the courthouse a notice, no smaller than
13 8.5 by 11 inches, using no smaller than 30-point typeface,
14 and printed in English and in Spanish, advising the public
15 that they may ask the court for permission to sue or defend a
16 civil action without payment of fees, costs, and charges.
17 The notice shall be substantially as follows: "If you are
18 unable to pay the fees, costs, and charges of an action you
19 may ask the court to allow you to proceed without paying
20 them. Ask the clerk of the court for forms."

21 (d) The court shall rule on applications under this
22 Section in a timely manner based on information contained in
23 the application, unless the court, in its discretion,
24 requires the applicant to personally appear to explain or
25 clarify information contained in the application. If the
26 court finds that the applicant is an indigent person, the
27 court shall enter an order permitting the applicant to sue or
28 defend without payment of fees, costs, or charges. If the
29 application is denied, the court shall enter an order to that
30 effect stating the specific reasons for the denial. The
31 clerk of the court shall promptly mail or deliver a copy of
32 the order to the applicant.

33 (e) The clerk of the court shall not refuse to accept
34 and file a complaint, appearance, or other paper presented by

1 the applicant if accompanied by an application to sue or
2 defend as an indigent person and those papers shall be
3 considered filed on the date the application is presented.
4 If the application is denied, the order shall state a date
5 certain by which the necessary fees, costs, and charges must
6 be paid. The court, for good cause shown, may allow an
7 applicant whose application is denied to defer payment of
8 fees, costs, and charges, make installment payments, or make
9 payment upon reasonable terms and conditions stated in the
10 order. The court may dismiss the claims or defenses of any
11 party failing to pay the fees, costs, or charges within the
12 time and in the manner ordered by the court. A determination
13 concerning an application to sue or defend as an indigent
14 person shall not be construed as a ruling on the merits.

15 (f) The court may order an indigent person to pay all or
16 a portion of the fees, costs, or charges waived pursuant to
17 this Section out of moneys recovered by the indigent person
18 pursuant to a judgment or settlement resulting from the civil
19 action. However, nothing in this Section shall be construed
20 to limit the authority of a court to order another party to
21 the action to pay the fees, costs, or charges of the action.

22 (g) A court, in its discretion, may appoint counsel to
23 represent an indigent person, and that counsel shall perform
24 his or her duties without fees, charges, or reward.

25 (h) Nothing in this Section shall be construed to affect
26 the right of a party to sue or defend an action as an
27 indigent person without the payment of fees, costs, or
28 charges, or the right of a party to court-appointed counsel,
29 as authorized by any other provision of law or by the rules
30 of the Illinois Supreme Court.

31 (i) The provisions of this Section are severable under
32 Section 1.31 of the Statute on Statutes.

1 Sec. 5A-107. Representation by civil legal services
2 provider.

3 (a) As used in this Section:

4 "Civil legal services" means legal services in
5 non-criminal matters provided without charge to indigent
6 persons who have been found eligible under financial
7 eligibility guidelines established by the civil legal
8 services provider.

9 "Civil legal services provider" means a not-for-profit
10 corporation that (i) employs one or more attorneys who are
11 licensed to practice law in the State of Illinois and who
12 directly provide civil legal services or (ii) is established
13 for the purpose of providing civil legal services by an
14 organized panel of pro bono attorneys.

15 "Eligible client" means an indigent person who has been
16 found eligible for civil legal services by a civil legal
17 services provider.

18 "Indigent person" means a person whose income is 125% or
19 less of the current federal poverty income guidelines or who
20 is otherwise eligible to receive civil legal services under
21 the federal Legal Services Corporation Act of 1974.

22 (b) When a party is represented in a civil action by a
23 civil legal services provider, all fees and costs relating to
24 filing, appearing, transcripts on appeal, and service of
25 process shall be waived without the necessity of a motion for
26 that purpose, and the case shall be given an index number or
27 other appropriate filing number, provided that (i) a
28 determination has been made by a civil legal services
29 provider that the party is indigent and (ii) an attorney's
30 certification that a determination has been made that the
31 party is indigent is filed with the clerk of the court along
32 with the complaint, the appearance, or any other paper that
33 would otherwise require payment of a fee.

1 (735 ILCS 5/5A-108 new)

2 Sec. 5A-108. Lien of officer. Where any person has been
3 permitted by any court to commence and prosecute or to defend
4 an action as an indigent person without the payment of costs
5 and expenses, the clerk of the court and the sheriff shall
6 each have a lien upon every claim, including every claim for
7 unliquidated damages, asserted in the action by the party who
8 has thus been permitted to sue or defend as an indigent
9 person, and upon the proceeds thereof, for the amount of all
10 fees and charges, becoming due the officer under the
11 provisions of Section 5A-101 of this Code, and remaining
12 unpaid. The order of court permitting the party to proceed as
13 an indigent person shall be sufficient notice of the
14 existence of the lien to all other parties in the case, as
15 well as to any insurer or other third party in any way liable
16 for payment of any such claim or portion thereof, who shall
17 have been called upon to defend against the same or otherwise
18 notified of such claim.

19 On petition filed in the court in which the action has
20 been commenced, the court shall, on not less than 5 days
21 notice to all parties concerned, adjudicate the rights of the
22 petitioning officer or officers and enforce the lien or liens
23 by all appropriate means.

24 (735 ILCS 5/Art. V rep.)

25 Section 10. The Code of Civil Procedure is amended by
26 repealing Article V.